

REPORT

Of the Committee of Claims in the case of John P. Cox.

MARCH 5, 1824.

Read: Ordered that it lie upon the table.

The Committee of Claims, to whom was referred the petition of John P. Cox, of the state of New York,

REPORT:

The petitioner represents, that, in 1814, he was paymaster of the first regiment of Gen. Heermance's brigade, stationed at Haerlem Heights, for the defence of the city of New York. During the time of his service as paymaster, he had his quarters at the house of one John N. Granzebeck, near the said regiment; that he, Anthony Delamater, Esq. the Col., Dr. Wheeler, the Surgeon, and Charles Borland, Jr. Esq. the Quartermaster of said regiment, occupied one room in the second story of Gurzebeck's house. For ten or twelve days previous to the 24th of October, in the year aforesaid, the petitioner was sick, and unable to leave his room; that he deposited the moneys, remitted to him for the payment of the troops, in a leather trunk, which he kept locked, and on a table at the head of his bed, except nights, when it was placed in a closet, in the same room. On the afternoon of the 24th of October aforesaid, the petitioner being convalescent, opened the trunk with a view of counting over the money which remained after making payment to the regiment, and it appeared, after counting it, in presence of Gamaliel Wheeler, that there was the sum of \$2,587 37½. About the time the petitioner had finished counting the money, he and the other officers were called to tea; that he thereupon replaced the money in the trunk, locked it, and placed the trunk under the table, and went with Wheeler down stairs to tea, shutting the door after them; that the windows of the room were carefully closed, and shutters fastened, except one about fourteen feet from the ground, the shutters of which were not closed, but no communication could be had with it, except from the ground, the window having thumb springs to the sash in the inside, could not be raised from without.

The petitioner further represents, that the tea room to which he went was only fourteen feet from the room he occupied, and the stairs leading to it so near, that the slightest footsteps could be heard; that he was absent from the room not exceeding ten or fifteen minutes; that, shortly after his return, he discovered that the trunk, with the money, was gone; that he caused diligent search to be made immediately, and, for that purpose, two companies of the regiment were employed two days, but neither the trunk or money could be found till the 24th of December, when the trunk was found, with \$137 37.

The petitioner further represents, that Granzebeck had no one in his house except his children and some servants, who were employed, as he believes, in the kitchen; that he and his brother officers always had the greatest confidence in Granzebeck and his family, and being, while at tea, near the room where his trunk was, he did not believe it could be taken without his detecting the attempt.

The petitioner further represents, that, notwithstanding his loss, he has made payment of the money, except about eight hundred dollars, which is yet claimed by the United States; that he has been at much trouble and expense in endeavoring to recover the money, and he therefore prays Congress to pass an act for his relief.

The foregoing statement of the petitioner, which the committee have thought fit to present, nearly in his own words, is corroborated by the depositions of Gamaliel Wheeler, Col. Delamater, and Abraham Vanderhoop, to which the attention of the House is respectfully invited.

It appears, from a statement of David B. Ogden, Esq. submitted to the committee, that suit was brought by the petitioner against Granzebeck, for the recovery of the money, alleged to have been stolen. On the trial, one witness (Rider) testified that he saw the trunk handed out of a window, by a female servant, to Granzebeck, who took it and went away with it. Mr. Ogden believes the witness was entitled to credit, but the jury, it seems, thought otherwise, as they found for the defendant.

The committee are of opinion that the petitioner is not entitled to relief. He does not appear to have exercised as much diligence in taking care of the public money as a prudent man ought to have done. They therefore recommend that the prayer of the petitioner ought not to be granted.

To the Honorable the Senate and House of Representatives of the United States in Congress assembled.

The petition of John P. Cox, of the town of Rhinebeck, in the county of Dutchess, in the state of New York,

RESPECTFULLY SHEWETH:

That your petitioner, in the year 1814, during the war between the United States and Great Britain, was paymaster of the first regiment of General Martin Heermance's brigade, stationed at Harlem Heights, in the defence of the city of New York. That your petitioner, during the time of his said service as such paymaster, had his quarters at the house of one John N. Granzebeck, near the said regiment. That your petitioner, Anthony Delamater, Esq. the colonel of said regiment, Dr. Gamaliel Wheeler, surgeon of said regiment, Charles Borland Jr. Esq. the quartermaster of said regiment, occupied one room in the second story of the house of the said Granzebeck; that for ten or twelve days previous to the twenty-fourth day of October in the year aforesaid, your petitioner was sick with fever, so that he was unable to leave his room; that your petitioner deposited the moneys, remitted him as such paymaster for the payment of the said regiment, in a leather trunk about two feet long and in other respects of the ordinary size, which petitioner always kept locked, and, during his said sickness, on a table at the head of the bed where petitioner lay, except nights, when petitioner locked the said trunk in a closet in the same room; that, on the afternoon of the 24th day of October aforesaid, your petitioner, being convalescent, opened his trunk with a view of counting over the moneys, remaining therein after making payments to his said regiment, and, upon counting said money in presence of said Gamaliel Wheeler, the said surgeon of said regiment, found that there was the sum of \$2587 37½ in said trunk; that about the time petitioner had finished counting said money, petitioner and the other officers were called to tea; that your petitioner thereupon replaced the money in said trunk, and locked it, and took the key with him; that he put said trunk under the said table standing in the place aforesaid; that your petitioner and said Wheeler thereupon went down stairs to take their tea, and shut the door of the said room; that the windows in said room were carefully closed, and shutters fastened, except one window about fourteen feet from the ground, the shutters of which were not closed,—no communication could, however, be had with said window, except from the ground; which window had thumbsprings in the inside to the sash, and could not be raised from without. Your petitioner further represents: That the tea-room where petitioner went, and no further, is no more than fourteen feet from the room occupied by petitioner as aforesaid, and the stairs leading to it so near that the slightest footsteps could

be heard; that your petitioner was absent from his said room, the said time, not to exceed ten or fifteen minutes; that shortly after his return to his said room, he discovered that his said trunk, with the said money, was gone: that your petitioner immediately caused diligent search to be made in and about said premises, and elsewhere, and, for that purpose, two companies of said regiment were employed two days, but no traces of said trunk or money could be found, until the 24th day of December following, the said trunk, with \$137.37 in it, was found near the house aforesaid, in a thicket of bushes; that said house was near one half mile from camp; that said Granzebeck had no one in his house, except his children, a black male servant, and a white female servant, who were employed, according to petitioner's present recollection, in the kitchen near the said tea-room, (while petitioner was at tea as aforesaid,) in making sausages; that your petitioner and his said brother officers had always the greatest confidence in the integrity of the said Granzebeck and his family, and your petitioner, being so near his room, did not suppose or believe that said trunk could possibly be taken without his detecting the attempt. And your petitioner further sets forth, most respectfully: that he has made his payments, notwithstanding his said loss, with the exception of about eight hundred dollars, which is yet claimed by the Treasury of the United States from your petitioner; that he is in moderate circumstances, with a growing family, and totally unable to bear any portion of said loss without detriment to his said family; that whilst in the employ of his Government, and in the service of his country, as aforesaid, he always conducted himself in a manner becoming his station, and faithfully and honestly discharged the duties of his said office; that he uniformly took more care of the money of the Government than men of ordinary prudence do of their own; that, at the time this money was taken, there was seventy dollars of petitioner's own money in said trunk; that your petitioner has gone to much trouble and expense in attempting to recover this money. And your petitioner, as in duty bound, will ever pray, &c.

JOHN P. COX.

Duchess County, ss.

John P. Cox, being duly sworn, doth depose and say, that the facts set forth in the above petition, so far as they are his own act and deed, are in all respects just and true; and so far as they are the acts and deeds of others, he believes them to be true.

Sworn this twenty-third day of December, 1822, before me,

J. A. LIVINGSTON,

Commissioner authorized by the laws of the State
of N. York to take affidavits to be received in courts of record, &c.

STATE OF NEW YORK, } ss.
Dutchess county,

Gamaliel Wheeler, of the town of Livingston, in the county of Columbia, and state of New York, being duly sworn, says, that, in the year 1814, he was the surgeon of the first regiment of Gen. Martin Heermance's brigade of New York detached militia, stationed at Haerlem Heights, for the defence of the city of New York; that he is well acquainted with John P. Cox, the paymaster of said regiment; that he knows that said Cox was sick and confined to his room for ten or twelve days previous to the 24th day of October, in the year aforesaid; that, in the afternoon of said day, he was present when said Cox counted his money, which he had in a trunk; that said Cox, after he had thus counted said money, being, as he informed deponent, and as deponent believes, was \$2,583 37, from his seeing it counted; put the trunk, with the money in it, locked, near the bed: that they were then called to tea; that deponent went with said Cox into the other room to tea; that deponent quartered in the same room with said Cox; that the tea room was about 14 feet from their said lodging room; that deponent returned with said Cox, after tea, to their room, when the trunk and money was missed; that search was made thereupon without effect; and further deponent says, that he understood that said trunk, with a small sum of money in it, was afterwards found near their said quarters; that they were absent from their room to tea not to exceed fifteen minutes.

GAMALIEL WHEELER.

Sworn the 20th day of December, 1822, before me

M. S. MARTIN.

*Commissioner authorized by the laws of the state
of New York to take affidavits.*

STATE OF NEW YORK, } ss.
Ulster county,

Anthony Delamater, of the town of Kingston, in the county of Ulster, in the state aforesaid, being duly sworn, says, that, in the summer and fall of the year 1814, he, the deponent, commanded a regiment of New York state militia, being the first regiment of General Martin Heermance's brigade, stationed at Haerlem Heights, for the defence of the city of New York, John P. Cox was the paymaster of said regiment: that he is well acquainted with most of the facts set forth in the petition of the said John P. Cox, hereto annexed, and that the same are just and true; that deponent quartered in the same room with said Cox, as it is in said petition set forth, during the time said regiment was at Haerlem, aforesaid; that he knows the facts that said John P. Cox was sick for ten or twelve days previous to the twenty-fourth day of October, in the year aforesaid, and confined to

his room; that deponent knows that Cox, for the purpose of enabling him to make payments to the officers and soldiers during his illness, had the trunk, with the money mentioned in his said petition, on a table at the head of his bed; that he caused the same to be locked in a closet in the same room during the hours of repose; that he well remembers seeing the trunk on said table the afternoon of the 24th of October, aforesaid; that said Cox was then convalescent, and, for the first time since his said illness, prevailed on to leave his room to go into an adjoining room to tea; that he saw said Cox the moment before they left the room for the purpose of taking tea, put said trunk, carefully locked, under said table; that they then all went to take tea; that the said tea room was not more than fourteen feet from their said lodging room; that the servants of said Gransebeck, according to deponent's present recollection, during the time deponent and Cox, and the other officers, were at tea, as aforesaid, were employed in the kitchen, as is set forth in said petition; that deponent had the greatest confidence in the integrity of said Gransebeck and his family; that no man would have supposed, under the circumstances of this case, that said trunk could have been stolen or taken away during the time they were at tea, which did not exceed fifteen minutes; that he returned to their said quarters, after tea, with said Cox; that the loss of the trunk was shortly after discovered; that diligent search was made in and about the said premises; that he ordered two companies from his said regiment, to assist in the search; that every degree of diligence was used to recover said trunk and money in the power of man; that no traces of it could be found; that he is now, and was then, well acquainted with said Cox; that he has now, and had then, the greatest confidence in the integrity, honesty and prudence of said Cox; that, as such paymaster, he always demeaned himself suitable to his station; that no man could exercise a greater degree of care in the preservation and safe keeping of property entrusted to him, than said Cox did of this money; that, at the time it was stolen, no man could presume that it was possible that it could have been done without said Cox's detecting the same; that the windows of the room were closed in the manner set forth in his said petition; that deponent knows said Cox's circumstances, and is satisfied that he is not able to bear the loss of any portion of this money; that deponent was informed, and believes it true, that the trunk, with a small sum of money, was found, in manner set forth in said Cox's petition.

ANTHONY DELAMATER.

Sworn this 21st day of December, 1822, before me

SWEIGN BRUYN,

*Master in Chancery, authorized by the laws
of the state of New York to take affidavits.*

STATE OF NEW YORK, } ss.
Dutchess county, }

Abraham Vanderhoof, of the town of Rhinebeck, in the county and state aforesaid, being duly sworn, doth depose and say, that he was a captain of the first regiment of Gen. Martin Heermance's brigade; and stationed at Haerlem Heights, for the defence of the city of New York, in the year 1814; that he is well acquainted with John P. Cox, the paymaster of said regiment; that deponent quartered with said Cox at the house of John N. Gransebeck, near the quarters of said regiment; that the deponent knows the fact, that said Cox was sick for ten or twelve days previous to the 24th, in the year aforesaid; that he knew that said Cox during his illness kept his trunk, with the money to pay the troops, on a table at the head of his bed; that at night said trunk was locked up in a closet in the same room where said Cox slept; that he well remembers that in the afternoon of the twenty-fourth of October, in the year aforesaid, said Cox was then convalescent; that they went to tea in a room about fourteen feet from said Cox's room; that deponent had the greatest confidence in the integrity and honesty of said Gransebeck and his family; that deponent believes, from present recollection, that the servants of said Gransebeck were, at the time, employed in the kitchen, near the tea room, in the manner set forth in said Cox's petition; that this deponent knows that they were not to exceed fifteen minutes at tea; that said Cox went directly to his room; that the loss of the trunk was almost immediately discovered; that search was immediately made, in manner set forth in the annexed petition, to no effect; that deponent has understood that the trunk was found, with a small sum of money in it, as it is stated by the said Cox, in his said petition; that deponent is well acquainted with said Cox, and has been from the infancy of said Cox; that he has, and always had, unbounded confidence in his integrity and honesty; that no man of ordinary care and prudence could have more diligently watched public property than Cox did in this instance; that no man presumed it possible that said trunk could be stolen without immediate detection; that he knows the circumstances of said Cox; that he is unable to bear the loss of said money, or any portion of it.

ABM. VANDERHOOF.

Sworn this 23d day of December, 1822, before me,

J. A. LIVINGSTON,

*Commissioner authorized by the laws of the
state of New York to take affidavits.*

I hereby certify, that I was some years ago employed as one of the council of Mr. John P. Cox, upon the trial of an action brought by him in the city of New York, against John N. Granzebeck, to recover the amount of a certain sum of money said to have been contain-

ed in a trunk, which Mr. Cox alleged had been stolen, or taken, by Granzebeck. I have no distinct recollection of the amount of money in the trunk, nor of the evidence in the cause, except that I distinctly recollect that one Rider was produced and sworn as a witness, who testified that he saw the trunk handed out of a window by a female to Granzebeck, who took it and went away with it. The only question in the cause was, whether Rider was entitled to credit or not. I thought at the time that he was entitled to credit; and, therefore, believed that the jury would have found a verdict for the plaintiff, Mr. Cox—they, however, rendered a verdict for the defendant.

DAVID B. OGDEN.

Washington, February 16, 1824.